

## Message Text

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ACTION IO-10

INFO OCT-01 ISO-00 AF-04 ARA-06 EA-06 EUR-12 NEA-06 RSC-01

CIAE-00 DODE-00 PM-03 H-01 INR-05 L-02 NSAE-00 NSC-05

PA-01 PRS-01 SP-02 SS-15 USIA-06 OMB-01 COME-00

TRSE-00 EB-07 CIEP-01 OIC-02 /098 W

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R 281853 ZNOV 74

FM USMISSION USUN NY

TO SECSTATE WASHDC 7961

INFO AMEMBASSY MEXICO CITY

USMISSION GENEVA

USMISSION OECD PARIS

USMISSION EC BRUSSELS

LIMITED OFFICIAL USE SECTION 1 OF 2 USUN 5503

E.O. 11652: N/A

TAGS: UN EGEN UNCTAD

SUBJC CHARTER OF ECONOMIC RIGHTS AND DUTIES OF  
STATES (CERDS)

REF: USUN 5475

1. AMBASSDAOR GARCIA ROBLES (MEXICO) FORMALLY INTRODUCED  
IN COMMITTEE 2, NOVEMBER 27, G-77 DRAFT OF CHARTER. HE  
DESCRIBED TEXT AS WELL-BALANCED BUT INDICATED THAT G-77  
WILLING TO CONTINUE NEGOTIATING IN GOOD FAITH DURING  
SHORT TIME REMAINING. ROBLES QUALIFIED OFFER BY STATING  
THAT SUGGESTIONS TO MODIFY OR DELETE ARTICLES SHOULD TAKE  
INTO ACCOUNT FOLLOWING TWO POINTS: A) PROPOSALS SHOULD  
BE RESTRICTED TO QUESTIONS CONSIDERED ESSENTIAL AS IT  
WOULD BE USELESS TO RESUME DEBATE ON ALL DISAGREED PARA-  
GRAPHS; B) QUESTIONS REGARDING SOVEREIGNTY, OR POWERS  
INHERENT IN IT, ARE NOT NEGOTIABLE. (IN SUBSEQUENT CON-  
VERSATION WITH USDEL, CASTANEDA (MEXICO) INDICATED THAT  
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LATTER DID NOT PRECLUDE SOME NEGOTIATING FLEXIBILITY WITH RESPECT TO ARTICLE 2 ON INVESTMENT.) ROBLES ASSERTED THAT G-77 HAD ALREADY MADE SIGNIFICANT CONCESSIONS AND THAT IT NOW TURN OF DEVELOPED COUNTRIES TO MAKE CONCESSIONS. HE URGED THAT IF NEITHER UNANIMITY OR CONSENSUS POSSIBLE, COUNTRIES WHICH HAVE INSUPERABLE OBJECTIONS TO SPECIFIC PARTS OF DRAFT CHARTER CALL FOR A SEPARATE VOTE ON UNACCEPTABLE ARTICLES SO THAT THESE OBJECTIONS DO NOT CONSTITUTE OBSTACLE TO SUPPORT OF CHARTER AS A WHOLE.

2. ARGENTINA AND EGYPT ALSO SPOKE IN FAVOR OF G-77 DRAFT. AUSTRIA, WITHOUT ENUMERATING THEM, INDICATED THAT IT HAD SOME PROBLEMS, BUT WAS HOPEFUL THAT THEY COULD BE RESOLVED. ALBANIA, MAURITANIA AND PRC OBJECTED TO INCLUSION OF KHMER REPUBLIC AS ONE OF CO-SPONSORS OF RESOLUTION. PRC ALSO CALLED FOR DELETION OF ARTS 15 (ON DISARMAMENT) AND 20 ON NON-DISCRIMINATORY TREATMENT OF SOCIALIST COUNTRIES BY LDCS) AND REDRAFTING OF ARTICLE 26 (ON MFN FOR COMMUNIST COUNTRIES).

3. WEO CONTACT GROUP, REPORTED REFTTEL, MET AT CANADIAN EMBASSY 3 PM NOVEMBER 27 TO ATTEMPT TO FORMULATE SET OF AGREED AMENDMENTS TO GA77 TEXT. DECISION REACHED THAT REPRESENTATIVES OF THIS GROUP WOULD SEEK OUT ROBLES NOVEMBER 28 AND NOTE THAT GROUP WILL BE READY TO PUT FORWARD AMENDMENTS INFORMALLY AND BEGIN NEGOTIATIONS AS EARLY AS FRIDAY NOVEMBER 29.

4. GROUP OF INTERESTED WEOS DECIDED TENTATIVELY ON FOLLOWING AMENDMENTS TO BE PRESENTED INFORMALLY TO G-77.

5. PREAMBULAR PARAGRAPHS 4 AND 5(C): RETURN TO LANGUAGE AGREED AT MEXICO CITY (TD/B/AC.12/4).

6. FINAL PREAMBULAR PARAGRAPH: PLACE PERIOD AFTER "STATES" AND DELETE REST OF SENTENCE.

7 CHAPTER 1: DELETE SUBPARAGRAPH (I).

8 CHAPTER 2: ARTICLE2. SUBSTITUTE

"(1) EVERY STATE HAS PERMANENT SOVEREIGNTY OVER ITS LIMITED OFFICIAL USE

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NATURAL WEALTH AND RESOURCES AND HAS THE INALIENABLE RIGHT FULLY FREELY TO DISPOSE OF THEM.

(2) EACH STATE HAS THE RIGHT:

(A) TO ENACT LEGISLATION AND PROMULGATE RULES AND REGULATIONS, CONSISTENT WITH ITS

DEVELOPMENT OBJECTIVES, TO GOVERN THE  
ENTRY AND ACTIVITIES WITHIN ITS TERRITORY  
OF FOREIGN ENTERPRISES;

(B) TO ENTER FREELY INTO UNDERTAKINGS RELATING  
TO THE IMPORT OF FOREIGN CAPITAL WHICH  
SHALL BE OBSERVED IN GOOD FAITH;

(C) TO REGULATE AND SUPERVISE THE ACTIVITIES OF  
TRANSNATIONAL CORPORATIONS WITHIN ITS  
NATIONAL JURISDICTION AND TAKE MEASURES TO  
ENSURE THAT SUCH ACTIVITIES COMPLY FULLY  
WITH ITS LAWS, RULES AND REGULATIONS AND  
CONFORM WITH ITS ECONOMIC AND SOCIAL  
POLICIES. EVERY STATE SHALL ENSURE THAT  
TRANSNATIONAL CORPORATIONS ENJOY WITHIN  
ITS NATIONAL JURISDICTION THE SAME RIGHTS  
AND FULFILL THE SAME OBLIGATIONS AS ANY  
OTHER FOREIGN PERSON. TRANSNATIONAL  
CORPORATIONS SHALL NOT INTERVENE IN THE  
INTERNAL AFFAIRS OF A HOST STATE. EVERY  
STATE SHOULD, WITH FULL REGARD FOR ITS  
SOVEREIGN RIGHTS, CO-OPERATE WITH OTHER  
STATES IN THE EXERCISE OF THE RIGHT SET  
FORTH IN THIS SUBPARAGRAPH;

(D) TO NATIONALIZE, EXPROPRIATE OR REQUISITION  
FOREIGN PROPERTY FOR A PUBLIC PURPOSE,  
PROVIDED THAT JUST COMPENSATION IN THE  
LIGHT OF ALL RELEVANT CIRCUMSTANCES SHALL  
BE PAID;

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(E) TO REQUIRE THAT ITS NATIONAL JURISDICTION BE EX-  
HAUSTED IN ANY CASE WHERE THE TREATMENT OF FOREIGN IN-  
VESTMENT OR COMPENSATION THEREFORE IS IN CONTROVERSY,  
UNLESS OTHERWISE AGREED BY THE PARTIES;

(F) TO SETTLE DISPUTES WHERE SO AGREED BY THE PARTIES  
CONCERNED THROUGH NEGOTIATION, GOOD OFFICES, INQUIRY,  
FACT-FINDING, CONCILIATION, MEDIATION, ARBITRATION  
OR JUDICIAL SETTLEMENT, ON THE BASIS OF THE PRINCIPLES  
OF SOVEREIGN EQUALITY OF STATES AND FREE CHOICE OF MEANS.

Z(E) STATES TAKING MEASURES IN THE EXERCISE OF THE FORE-  
GOING RIGHTS SHALL FULFIL IN GOOD FAITH THEIR INTER-  
NATIONAL OBLIGATIONS."

9. ARTICLES 4 AND 26. SUBSTITUTE BRILLANTES COMPROMISE  
TEXTS (ALTERNATIVES 1, RESPECTIVELY, OF TD/2/AC.12/4).

10. ARTICLE 5. SUBSTITUTE "ALL STATES HAVE THE RIGHT  
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TO ASSOCIATE IN ORGANIZATIONS WITHIN THE FRAMEWORK  
OF INTERNATIONAL CO-OPERATION IN ORDER TO PROMOTE THE  
SUSTAINED GROWTH OF THE WORLD ECONOMY FOR THE BENEFIT  
BOTH OF DEVELOPING AND DEVELOPED COUNTRIES."

11. ARTICLE 16. DELETE THIS ARTICLE.

12. ARTICLE 30. AMEND THE PENULTIMATE SENTENCE TO READ:  
"ALL STATES HAVE, IN ACCORDANCE WITH PERTINENT INTER-  
NATIONAL NORMS, REGULATIONS AND OBLIGATIONS, THE RES-  
PONSIBILITY TO ENSURE THAT ACTIVITIES...."

13. ARTICLE 32. IN THE PENULTIMATE LINE, SUBSTITUTE  
"AND" FOR "OR" SO IT READS "AND TO SECURE FROM IT  
ADVANTAGES OF ANY KIND".

14 ARTICLE 34. GROUP DECIDED IT WOULD BE WILLING TO  
ACCEPT SUCH LANGUAGE, APPROPRIATELY REDRAFTED, IN THE

INTRODUCTORY RESOLUTION IF UNAGREED PARAGRAHS CAN BE DEFERRED.

15. COMMENT: CANADIAN AND AUSTRALIAN DELS NOTED THEY WERE NOT FULLY IN ACCORD WITH ABOVE FORMULATION OF ARTICLE 2, BUT BOTH DELS INDICATED THEY WOULD NOT SURFACE DIFFERENCES UNLESS AND UNTIL NECESSARY, END COMMENT.

16. A SMALL DRAFTING GROUP WILL MEET NOVEMBER 28 AT JAPANESE EMBASSY TO ATTEMPT TO FORMULATE AGREED DEVELOPED COUNTRY POSITION ON ARTS. 6, 19, AND 28. ON OTHER ARTICLES WHERE ONLY SOME DELEGATIONS HAVE DIFFICULTY, THESE DELEGATIONS WILL BE FREE TO PRESENT SEPARATE AMENDMENTS. GROUPS OF INTERESTED WEOS WILL MEET AGAIN NOVEMBER 29 AT 9:30 A.M. WITH A VIEW TO BEGIN NEGOTIATIONS WITH G-77 IN THE AFTERNOON.  
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\*\*\* Current Classification \*\*\* LIMITED OFFICIAL USE

## Message Attributes

**Automatic Decaptioning:** X  
**Capture Date:** 01 JAN 1994  
**Channel Indicators:** n/a  
**Current Classification:** UNCLASSIFIED  
**Concepts:** CERDS, COMMITTEES, NEGOTIATIONS  
**Control Number:** n/a  
**Copy:** SINGLE  
**Draft Date:** 28 NOV 1974  
**Decaption Date:** 01 JAN 1960  
**Decaption Note:**  
**Disposition Action:** RELEASED  
**Disposition Approved on Date:**  
**Disposition Authority:** golinofr  
**Disposition Case Number:** n/a  
**Disposition Comment:** 25 YEAR REVIEW  
**Disposition Date:** 28 MAY 2004  
**Disposition Event:**  
**Disposition History:** n/a  
**Disposition Reason:**  
**Disposition Remarks:**  
**Document Number:** 1974USUNN05503  
**Document Source:** CORE  
**Document Unique ID:** 00  
**Drafter:** n/a  
**Enclosure:** n/a  
**Executive Order:** n/a  
**Errors:** n/a  
**Film Number:** D740346-0238  
**From:** USUN NEW YORK  
**Handling Restrictions:** n/a  
**Image Path:**  
**ISecure:** 1  
**Legacy Key:** link1974/newtext/t19741183/aaaahfoh.tel  
**Line Count:** 244  
**Locator:** TEXT ON MICROFILM, TEXT ON-LINE  
**Office:** ACTION IO  
**Original Classification:** LIMITED OFFICIAL USE  
**Original Handling Restrictions:** n/a  
**Original Previous Classification:** n/a  
**Original Previous Handling Restrictions:** n/a  
**Page Count:** 5  
**Previous Channel Indicators:**  
**Previous Classification:** LIMITED OFFICIAL USE  
**Previous Handling Restrictions:** n/a  
**Reference:** USUN 5475  
**Review Action:** RELEASED, APPROVED  
**Review Authority:** golinofr  
**Review Comment:** n/a  
**Review Content Flags:**  
**Review Date:** 11 APR 2002  
**Review Event:**  
**Review Exemptions:** n/a  
**Review History:** RELEASED <11 APR 2002 by izenbei0>; APPROVED <14-Aug-2002 by golinofr>  
**Review Markings:**

Declassified/Released  
US Department of State  
EO Systematic Review  
30 JUN 2005

**Review Media Identifier:**  
**Review Referrals:** n/a  
**Review Release Date:** n/a  
**Review Release Event:** n/a  
**Review Transfer Date:**  
**Review Withdrawn Fields:** n/a  
**Secure:** OPEN  
**Status:** <DBA CORRECTED> gwr 971107  
**Subject:** CHARTER OF ECONOMIC RIGHTS AND DUTIES OF STATES (CERDS)  
**TAGS:** EGEN, UN, EGEN, UNCTAD  
**To:** STATE  
**Type:** TE  
**Markings:** Declassified/Released US Department of State EO Systematic Review 30 JUN 2005